

wherein

B2  
C&L

said first, second and third cushioned layers are [provided for aiding]  
located at support areas of said sole base body which positively affect a contraction of the  
musculature of the foot, serving thereby to aid the venous outflow of blood;

said first, second and third cushioned layers are each divided into individual plateau-like fields, separated from but positioned next to each other in the transverse direction of said sole surface;

each cushioned layer defines a surface, which are each raised with respect  
to said sole surface; and  
said sole cover layer covering said surface of each cushioned layer and said sole surface.

28. (Amended) The inner sole as defined in claim 27, wherein said fourth cushioned layer is [ovally homogenous] substantially oval in shape in the transverse direction of said sole base.

#### REMARKS

The finality of the restriction requirement is noted.

Submitted herewith is a newly executed declaration of the applicant which correctly identifies the title of the invention.

The rejection of pending claims 26-30 under 35 USC 112, first paragraph, because "[i]t is not clear how the instant invention aids the venous outflow of blood," and [s]ince such alleged benefit has not been proven it is speculative and therefore cannot be claimed." is noted and respectfully traversed.

Applicant can see no reason why the benefits of the structure specifically claimed

should give rise to doubts on the part of the Patent and Trademark Office. The cases are clear, the initial burden is on the Patent and trademark Office to provide a reasonable explanation as to why it considers the disclosure inadequate to support the claim(s). See, *In re Wright*, 27 USPQ2d 1510. To suggest that advantage of a particular structure is "speculative" without more is itself speculative and not in accordance with the intent of 35 USC 112.

On page 2 of the specification it is stated that "Suitable support areas, which positively affect a contraction of the musculature of the foot, result from the steps in accordance with the present invention." This disclosure asserts that the structure (first, second, third, etc, cushioned layers) because of their position (support areas) provides the necessary benefit claimed. To insure completeness on this point, claim 26 has been amended to specify that the first, second and third cushioned layers have a location "at support areas" of the sole body which bring about the contraction of the musculature of the foot with the stated affect of aiding the venous outflow of blood. Why this is so is really not the issue. The fact that it is so is, and it is sufficient to state the result.

Claim 28 has been amended to change "ovally homogenous" to "substantially oval in shape." This amendment should overcome the indefiniteness rejection of claim 28.

The rejection of claims 26 and 27 as unpatentable under 35 USC 103(a) over Pendergast, the rejection of claim 28 as unpatentable under 35 USC 103(a) over Pendergast in view of Mauch or Sawyer, the rejection of claim 29 as unpatentable under 35 USC 103(a) over Pedergast in view of Shames, and the rejection of claim 30 as unpatentable under 35 USC 103(a) over Pendergast in view of Fenton or Alianiello are noted and respectfully traversed.

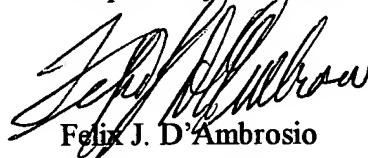
In applying the primary Pendergast reference, the examiner states that "Pendergast teaches all the limitations of claim 26 except each (first, second, and third) cushioned layer being

divided into individual fields." Applicant respectfully disagrees. Pendergast lacks more than that. Claim 26 not only identifies various cushioned layers, but positions them as well. The first cushioned layer is "provided in said forefoot joint area," the second cushioned layer is "provided in said metatarsus/tarsus transition area," and the third cushioned layer is "provided in said metatarsus/heel transition area." These are specific locations not disclosed in Pendergast. Then in claim 27 the fourth cushioned layer is identified and it is "provided in said heel area." Finally, in claim 29 the fifth cushioned layer is identified and it is "provided in said plantar arch area." Here again, these are specifically located in a manner not disclosed in Pendergast or any of the other references cited or applied. The failure to provide specific teaching regarding the locations of the various cushioned layers precludes a holding of unpatentability.

Also submitted herewith is a sample inner sole embodying the invention and a brochure comprising three sheets in German and English which discuss the advantages of the present invention. If after consider these enclosures, the examiner would wish to discuss them further, he is invited to contact the undersigned at the telephone number indicated and request an interview.

In view of the foregoing, reconsideration and re-examination are respectfully requested and claims 26-30 found allowable.

Respectfully submitted



Felix J. D'Ambrosio  
Reg. No. 25,721

November 30, 2000

Tel: (703) 415-1500

# SEITER KLINIK

Seiter - Klinik • Wilhelmsplatz 11 • 70182 Stuttgart

## 1. THE INVENTOR OF THE VENOPED SHOE INSOLE:

Dr. Hans Seiter who's name the "Seiter Klinik" bears, is a vessel surgeon and vein specialist. He worked 15 years in university clinics both at home and abroad before setting up his own specialist clinic for vessel diseases.

Out of the knowledge that "prevention is better than cure" and through the evaluation of numerous case studies in his specialist clinic, the Venoped shoe insole was innovated. It is being recommended for the prevention and treatment of vein complaints.

## 2. VEIN COMPLAINTS A NATIONAL DISEASE

Your heart beats over 100,000 times daily pumping your blood into the vessels which carry it through the body. The arteries thereby distributes oxygenated blood into the tissues while the veins take deoxygenated blood containing harmful substances back to the heart from where it succeeds into the lungs.

## 3. Why a national disease?

65% of the population suffer more or less from functional disorders of the vein system.

## 4. What are the consequences of vein diseases?

Heavy swollen legs, varicose veins and its resulting open legs, phlebitis (inflammation of the vein), thrombosis and pulmonary embolism are consequences of a late discovered functional disorder of the veins.

## 5. What encourages vein diseases?

Varicose veins in the family, inherited weak connective tissues, overweight, lengthy standings, lengthy sittings, frequent sauna visits and hot bathes are risk-factors that favour the development of vein weakness.

# SEITER KLINIK

Seiter - Klinik • Wilhelmsplatz 11 • 70182 Stuttgart

## 6. Self-help preventive measures

Regular exercising amongst others strolling, walking, bicycling and swimming. Avoid overweight. Kneipp casts for the legs.

## 7. THE EFFECTIVENESS OF THE VENOPED SHOE INSOLE:

Orthopädische Fußstütze - Orthopaedic foot-support

Lymphatischer Rückfluß - Lymphatic reflux

Venöser Rückfluß - Venous reflux

The Venoped shoe insole was tested in clinical studies. It supports and improves the venous reflux through the permanent stimulation of areas with sensitive veins in the sole of the foot. This results to a constant change of pressure in the veins thereby speeding up the flow of the venous blood. Your veins are in this way relieved.

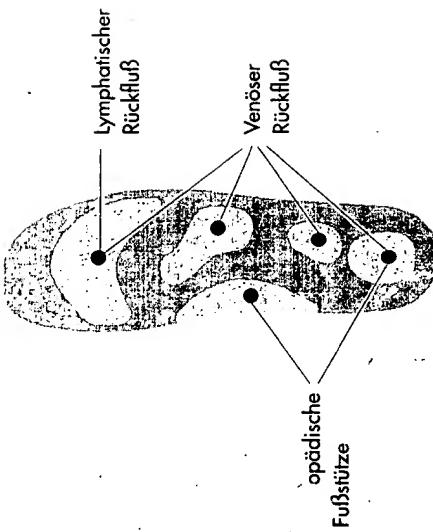
## 8. WHEN ARE VENOPED SHOE INSOLES REALLY IMPORTANT FOR YOU?

- When various veins exist in your family.
- When you experience in your legs frequent feelings of heaviness and tension respectively.
- When you suffer from swollen legs
- When you undergo feelings of restlessness and formication(tingling sensation) in the legs
- When you sense itching in the legs
- When you stand a lot at work

## 9. "MAN IS AS OLD AS HIS VESSELS"

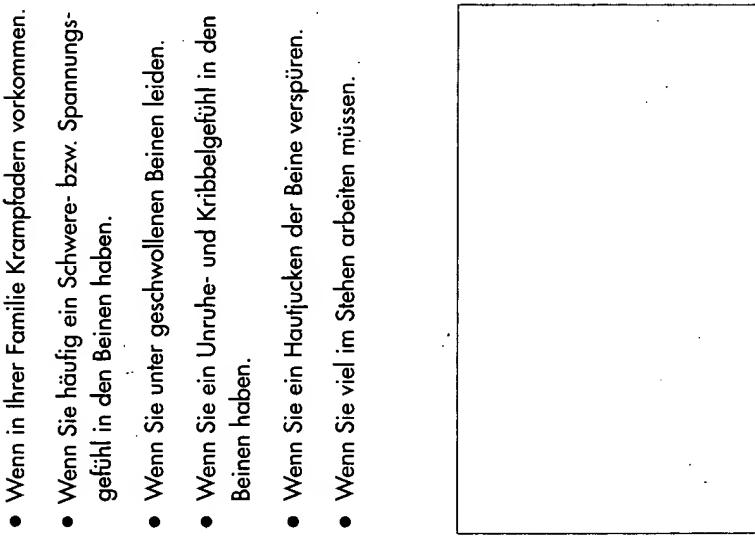
## DAS WIRKPRINZIP DER VENOPED SCHUHEINLAGE:

## 8. WANN SIND FÜR SIE VENOPED-SCHUH-EINLAGEN BESONDERS WICHTIG?



Die Venoped Schuheinlage wurde in klinischen Studien getestet. Sie unterstützt und verbessert den venösen Rückfluss durch eine permanente Stimulation venosensibler Bereiche der Fußsohle. Dabei kommt es zu einem ständigen Druckwechsel in diesen Venen, wodurch sich die Fließgeschwindigkeit des venösen Blutes erhöht. Dies führt zu einer Entlastung Ihrer Venen.

- Wenn in Ihrer Familie Krampfadern vorkommen.
- Wenn Sie häufig ein Schwere- bzw. Spannungsgefühl in den Beinen haben.
- Wenn Sie unter geschwollenen Beinen leiden.
- Wenn Sie ein Unruhe- und Kribbelgefühl in den Beinen haben.
- Wenn Sie ein Häufjucken der Beine verspüren.
- Wenn Sie viel im Stehen arbeiten müssen.



„Der „Mensch wird so oft wie seine Gefäße!“

## 1. DER ERFINDER DER VENOPED SCHUHEINLAGE:



Dr. Hans Seiter, der Gefäßchirurg und Venenspezialist, der der Seiter Klinik ihren Namen gab, arbeitete 15 Jahre in Universitätskliniken im In- und Ausland bevor er sich in Stuttgart seine eigene Fachklinik für Gefäßberkrankungen aufgebaut hat.

Die Erkenntnis „Vorbeugen ist Besser als Heilen“ und die Auswertung zahlreicher Fallstudien aus der eigenen Fachklinik führte zu der Innovation, die heute als Venoped Schuheinlage zur Vorbeugung und Behandlung von Venenleiden empfohlen wird.

## 2. VENENELEIDEN EINE VOLKSKRANKHEIT:

Über 100.000 mal schlägt Ihr Herz jeden Tag und pumpst ihr Blut in die Gelenke, die es durch den Körper leiten. Dabei verteilen die Arterien das sauerstoffreiche Blut im Gewebe, während die Venen das sauerstoffarme und mit Schadstoffen belastete Blut wieder aufnehmen und zum Herzen zurücktransportieren, von wo es zu den Lungen gelangt.

## 3. Warum Volkskrankheit?

65% der Bevölkerung leidet mehr oder weniger an Funktionsstörungen des Venensystems.

## 4. Was sind die Folgen von Venenerkrankungen?

Schwere und geschwollene Beine, Krampfadern und daraus resultierende offene Beine, Venenentzündungen,

Thrombosen und selbst Lungembolien sind die Folge zu spät erkannter Venenfunktionsstörungen.

## 5. Was begünstigt Venenerkrankungen?

Krampfadern in der Familie. Erbliche Bindewebeschwäche, Übergewicht, langes Sitzen, langes Sitzen, häufiges Saunieren und heiße Bäder sind Risikofaktoren für das Entstehen einer Venenschwäche.

## 6. Was Sie selber vorbeugend tun können

Regelmäßige Bewegung, unter anderem Spazierengehen, Walking, Radfahren, Schwimmen, Übergewicht vermeiden, Kneippgüsse für die Beine.